

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

April 26, 2006

DIVISION ONE

B180910 Spencer Berman et al. (Not for Publication)
 v.
 Brian Smith

The judgment is reversed. Plaintiffs are entitled to costs on appeal.

Mallano, J.

We concur: Spencer, P.J.
 Rothschild, J.

B187181 People (Not for Publication)
 v.
 Gustavo M. Torres

The judgment is affirmed.

Rothschild, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

B178027 Azirian
 v.
 Ma

Filed order modifying opinion. Petition for rehearing is denied. Request for publication is denied. (No change in the judgment)

April 26, 2006 (Continued)

DIVISION ONE (Continued)

B185043 People (Not for Publication)
v.
Baccus

The judgment is reversed and the matter is remanded with directions that defendant be permitted to withdraw his plea of nolo contendere.

Mallano, J.

We concur: Spencer, P.J.
Rothschild, J.

DIVISION TWO

B179794 Jewett (Not for Publication)
v.
Capital One Bank et al.

The judgment of the trial court is affirmed. Capital One is entitled to costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Chavez, J.

B186099 Nachiappan et al. (Not for Publication)
v.
Today's IV, Inc. et al.

The order of the trial court is affirmed. Respondents are entitled to costs on appeal. In addition Joseph S. Fischbach is directed to pay respondents \$5,000 as sanctions for prosecuting a frivolous appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Chavez, J.

DIVISION TWO (Continued)

B183254 People
 v.
 Peterson

Filed order denying petition for rehearing.

DIVISION THREE

B177465 People (Not for Publication)
 v.
 Victor B.

Probation condition 15 is ordered modified to read, "Do not associate with Fredrick Staves and anyone known to you to be disapproved of by your parents or probation officer." Probation condition 16 is modified to read, "Do not have any dangerous or deadly weapon in your possession, nor remain in the presence of any person known to you to be unlawfully armed." The juvenile court's order is further modified to reflect predisposition credit of 27 days. In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
 Croskey, J.

B183663 People (Not for Publication)
 v.
 Frank V.

Probation condition 21 is modified to read: "Do not use or process narcotics, controlled substances, poisons, or related paraphernalia; stay away from places where you know users congregate." In all other respects, the judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

DIVISION THREE (Continued)

B180299 SC Manufactured Homes Inc., et al (Not for Publication)
v.
Jonathan T. Trevillyan

The motion to dismiss is denied. The judgment is reversed. Plaintiffs and appellants SC Manufactured Homes, Inc., and Charles W. Redick, Jr., are to recover their costs on appeal.

Aldrich, J.

We concur: Klein, P.J.
Kitching, J.

B187240 Los Angeles County, D.C.S. (Not for Publication)
v.
Luis G.,

The order is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
Kitching, J.

B187586 People (Not for Publication)
v.
Yvonne V. Torres

The appeal is dismissed.

Klein, P.J.

We concur: Kitching, J.
Aldrich, J.

April 26, 2006 (Continued)

DIVISION THREE (Continued)

B185500 People (Not for Publication)
v.
Luis Manuel Cardenas

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B185247 Omar Dunlap
v.
S.C.L.A.
Bank of America Corporation et al.

Filed order vacating submission order of January 18, 2006. Due to the press of other court business and the complexity of the issues in this case, a brief additional amount of time is needed to complete and file the opinion in this matter. Cause resubmitted.

B182358 People
v.
Jesus Ivan Carillo

Filed order vacating submission order of April 12, 2006, to permit this Court to take steps to obtain the sealed affidavit (confidential attachment) supporting warrant in this case. The above matter is deemed resubmitted when this Court obtains the sealed affidavit.

DIVISION FOUR

B165662 People (Certified for Partial Publication)
v.
Lai and Luu

We remand Lai's case for resentencing. On remand, the trial court must stay execution of the two-year term under section 12022.6, subdivision (a)(2), delete that portion of the restitution award (\$11,230) attributable to Lai's crimes before the charged period, and impose the mandatory state and county penalty assessments required by section 1464 and Government Code section 76000. The court may fashion a new state prison sentence, so long as the new aggregate, non-stayed term does not exceed the original seven-year sentence. The court may also reconsider the amount of the underlying fine imposed pursuant to section 186.11, subdivision (c), upon which the amount of the penalty assessments are to be based, and the amount of the restitution fine and restitution imposed pursuant to section 1202.4, subdivisions (b) and (f). Otherwise, we affirm Lai's judgment. In Luu's case, we modify the judgment to impose a two-year term under section 186.11, subdivision (a)(3), consecutive to the middle term of two years on count 2 for welfare fraud. We further modify the judgment to impose a consecutive two-year term on count 2 under section 12022.6, subdivision (a)(2), but stay its execution pending completion of the sentence for welfare fraud and the section 186.11, subdivision (a)(3) enhancement, the stay thereafter to become permanent. As so modified, Luu's judgment is affirmed. The trial court shall prepare an amended abstract of judgment to reflect these changes.

Willhite, J.

We concur: Epstein, P.J.
Hastings, J. (Assigned)

April 26, 2006 (Continued)

DIVISION FOUR (Continued)

B186649 People (Not for Publication)
v.
Estrada

The judgment is affirmed.

Hastings, J. (Assigned)

We concur: Epstein, P.J.
Willhite, J.

DIVISION FIVE

B188501 Mark C. (Not for Publication)
v.
Superior Court, Los Angeles County
(DCFS, r.p.i.)

The petition is denied.

Kriegler, J.

We concur: Armstrong, Acting P.J.
Mosk, J.

B183937 People (Not for Publication)
v.
Carlos Thomas

The judgment is affirmed.

Kriegler, J.

We concur: Turner, P.J.
 Mosk, J.

April 26, 2006 (Continued)

DIVISION FIVE (Continued)

B182500 People (Not for Publication)
v.
Oscar Palmer

The conviction in count 3 is reversed, and upon issuance of the remittitur, the trial court is ordered to dismiss count 3. The finding on count 4, pursuant to section 1203.073, subdivision (b)(5), is stricken and the matter is remanded to the trial court for resentencing. In all other respects, the judgment is affirmed.

Kriegler, J.

We concur: Armstrong, Acting P.J.
Mosk, J.

DIVISION SIX

B182577 People (Not for Publication)
v.
Pritchard

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

[illegible]

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

April 26, 2006 (Continued)

DIVISION SIX (Continued)

B178856 People (Not for Publication)
v.
Solis

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

[illegible]

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Coffee, J.

B184625 People v. Zuniga (Not for Publication)

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

DIVISION EIGHT

Court convened at 9:15 a.m.

Present: Cooper, P.J., Rubin, J., Boland, J., Flier, J. and Connie Hon, Deputy Clerk.

DIVISION EIGHT (Continued)

Each of the following:

B182324 People v. Jorden
B182773 People v. Real
B182988 People v. Hall
B183251 People v. Corral
B183381 People v. Butler

Argument waived, cause submitted.

B175315 People
 v.
 Escalera

Merits:

Argued by William Kopeny for appellant and by Jonathan J. Kline, Deputy Attorney General for respondent. Cause submitted.

B183968 Mukthar
 v.
 Latin American Security Service

Merits:

Argued by Michael Cholodenko for appellant and by David J. Ozeran for respondent. Cause submitted.

B183858 People
 v.
 Curtis

Merits:

Argued by Matthew D. Alger for appellant and by Jonathan Kline, Deputy Attorney General for respondent. Cause submitted.

Cooper, P.J. left the bench.

DIVISION EIGHT (Continued)

B183132 Mattel, Inc.,
 v.
 Brawer,

Merits:
Argued by Lawrence Barth for appellant and by Douglas Wickham for respondent. Cause submitted.

B178723 Morad Construction & Development, Inc., et al.,
 v.
 Gedalia et al.,
 Hessler

Merits:
Argued by Nathan Dershowitz for appellants and by Jeffrey M. Cohon for respondents, appellant Hessler waived oral argument. Cause submitted.

Cooper, P.J. returned to the bench.

Flier, J. left the bench.

B181762 Bradley et al.,
 v.
 Express Scripts, Inc.,

Merits:
Argued by Michael A. Bowse for appellants and by Gail E. Lees for respondent. Cause submitted.

B182814 Perez et al.,
 v.
 Richard Roe 1 et al.,

Matter continued to June 29, 2006, at 9:00 a.m.

Court adjourned.

DIVISION EIGHT (Continued)

B179798 Stevenson Real Estate Services, Inc., (Certified for Publication)
v.
CB Richard Ellis Real Estate Services, Inc. et al.,

The judgment is vacated. The ruling on the motion for judgment on the pleadings is affirmed; however, the trial court is directed to grant Stevenson leave to amend. If it declines to amend within the time allocated by the trial court, the judgment is to be reinstated. Each party is to bear its own costs on appeal.

Boland, J.

We concur: Rubin, Acting P.J.
Flier, J.